BEFORE THE TEXAS BOARD OF NURSING

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| In the Matter of Registered Nurse | § | AGREED |
| License Number 221100 | § | |
| issued to CAROLYN R. WREN ERZ CLAYBORNE | § | ORDER |

TEXAS BOARD OF NURSING
I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Executive Director of the Board

On this day the Texas Board of Nursing, hereinafter referred to as the Boa considered the matter of CAROLYN R. WREN ERZ CLAYBORNE, Registered Nurse Lice Number 221100, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10)&(13), Texas Occupations Code. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order offered on July 16, 2010, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

## FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license(s).

2. Respondent waived informal proceedings, notice and hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice professional nursing in the State of Texas.

4. Respondent received a Diploma in Nursing from St. Mary's School of Nursing, Galveston, Texas, on June 1, 1967. Respondent was licensed to practice professional nursing in the State of Texas on June 1, 1972.

5. Respondent's nursing employment history includes:

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| 6/1972 - 5/2001 | Unknown | |
| 6/2001 - 2/2004 | Staff Nurse | Coastal Medical Services<br>Houston, Texas |

Respondent's nursing employment history continued:

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| 3/2004 - 12/2005 | Alt. Director of Nursing/ Alt. Administrator | Coastal Medical Services Houston, Texas |
| 1/2006 - 4/2006 | Part-Time Nurse | Coastal Medical Services Houston, Texas |
| 5/2006 - Present | Unknown | |

6. At the time of the initial incident in Finding of Fact Number Seven (7), Respondent was employed as the Alternate Director of Nursing/Alternate Administrator with Coastal Medical Services, Houston, Texas, and had been in this position for one (1) year and six (6) months.

7. On or about July 15, 2005, through December 18, 2005, while employed with Coastal Medical Services, Houston, Texas, Respondent failed to revise the Community Based Alternative plan of care for Client EJ to reflect that the client had been discharged July 13, 2005, from an acute care facility requiring feedings and medications to be administered/given through a gastrostomy tube. Respondent's conduct was likely to injure the client in that it failed to ensure continuity of the client's care.

8. On or about November 30, 2005, through December 29, 2005, while employed with Coastal Medical Services, Houston, Texas, Respondent documented assignment of the gastrostomy tube feedings of Client VG to unlicensed Attendant CG without ensuring and documenting that the attendant had the necessary skills and training to safely perform the assigned care. Respondent's conduct was likely to injure the client from complications due to administration of gastrostomy tube feedings by incorrect technique, including possible peritonitis and/or demise.

9. On or about December 19, 2005, through January 2, 2006, while employed with Coastal Medical Services, Houston, Texas, Respondent documented that the aforementioned Client EJ required enteral feeding by gastrostomy tube on the client's Community Based Alternative plan of care without:
   - Addressing who would be responsible for providing the client's tube feedings or providing gastrostomy care; and
   - Ensuring that the assigned attendant, Attendant LK, had the necessary skills and training to safely perform the gastrostomy feedings and care.

   Respondent's conduct was likely to injure the client from discontinuity of care, possible lack of gastrostomy tube feedings or care and/or from complications due to administration of gastrostomy tube feedings by incorrect technique, including possible peritonitis and/or demise.

10. In response to the incidents in Findings of Fact Numbers Seven (7) through Nine (9), Respondent states that her position involved admission of clients for personal care and household assistance, as well as orientation and supervision of the attendants hired to proved

the personal care and household tasks in the clients' homes. Regarding the tube feedings, Respondent states that the attendants for these clients were primarily family members or care givers the majority of the time, who she believes had been taught the tasks associated with tube feedings before the client was ever discharged from their prior facility before coming home and being admitted to care. According to Respondent, the skilled home health agency nurses admitted the clients and continued the teaching.

11. Formal Charges were filed September 21, 2009.

12. Formal Charges were mailed to Respondent at her address of record on September 22, 2009.

## CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violations of Section 301.452(b)(10)&(13), Texas Occupations Code, and 22 TEX. ADMIN. CODE §§ 217.11(1)(A),(1)(B),(1)(P),(1)(S),(1)(U)&(3)(A) and 217.12(1)(D),(1)(F)&(4).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Registered Nurse License Number 221100, heretofore issued to CAROLYN R. WREN ERZ CLAYBORNE, including revocation of Respondent's license(s) to practice nursing in the State of Texas.

## ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a WARNING WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a nurse licensure compact privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding: Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html.*

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in physical assessment. RESPONDENT SHALL obtain Board approval of the course prior to enrollment. Home study courses and video programs will not be approved. In order

for the course to be approved, the target audience shall include Nurses. The didactic portion of this course shall be a minimum of six (6) hours in length. RESPONDENT SHALL perform physical assessments on live patients in a clinical setting for a minimum of twenty-four (24) hours. The clinical component SHALL focus on tasks of physical assessment only and shall be provided by the same Registered Nurse who provides the didactic portion of this course. To be approved, the course shall cover all systems of the body. Performing assessments on mock patients or mannequins WILL NOT be accepted. The course description shall indicate goals and objectives for the course, resources to be utilized, and the methods to be used to determine successful completion of the course. RESPONDENT SHALL successfully complete both the didactic and clinical portions of the course to satisfy this stipulation. RESPONDENT SHALL CAUSE the instructor to submit a Verification of Course Completion form, provided by the Board, to the office of the Board to verify RESPONDENT'S successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: http://www.bon.state.tx.us/disciplinaryaction/stipscourses.html.*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following web address: http://www.learningext.com/products/generalce/critical/ctabout.asp.*

(4) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete the course "Pre-Survey Conference Computer-Based Training" for Home and Community Support Services Agencies, a six (6) module program which provides a general overview of state and federal licensure rules regarding home health care and which is presented by the Texas Department of Aging and Disability Services. In order to receive credit for completion of this workshop, RESPONDENT SHALL SUBMIT the Pre-Survey Conference Attendance Verification form to the Board's office. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. *Information regarding this workshop may be found at the following website: http://www.dads.state.tx.us/providers/hcssa/cbt/.*

**IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR ONE (1) YEAR OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWELVE (12) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A REGISTERED NURSE (RN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:**

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT'S license(s). RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT

SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT'S license(s). RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(6) RESPONDENT SHALL CAUSE each present employer in nursing to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(7) RESPONDENT SHALL CAUSE each employer to immediately submit any and all incident, counseling, variance, unusual occurrence, and medication or other error reports involving RESPONDENT, as well as documentation of any internal investigations regarding action by RESPONDENT, to the attention of Monitoring at the Board's office.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT'S license(s) to practice nursing in the State of Texas and RESPONDENT shall be eligible for nurse licensure compact privileges, if any.

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## RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license(s) to practice nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 12 day of August, 2010.

Carolyn R. Wren ERZ Clayborne

CAROLYN R. WREN ERZ CLAYBORNE, Respondent

Sworn to and subscribed before me this 12 day of August, 2010.

VALERIE SMALL
SEAL Notary Public
STATE OF TEXAS
My Comm. Exp. 09-22-10

Notary Public in and for the State of Texas

Approved as to form [redacted].

Elizabeth L. Higginbotham, Attorney for Respondent

Signed this 3rd day of Sept 2010

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 12TH day of August, 2010, by CAROLYN R. WREN ERZ CLAYBORNE, Registered Nurse License Number 221100, and said Order is final.

Effective this 14TH day of September, 2010.

Katherine A. Thomas, MN, RN
Executive Director on behalf
of said Board